

REMARKS

The Office Action mailed June 24, 2005, has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Rejection(s) Under 35 U.S.C. § 103 (a)

Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cheung et al. (U.S. pat. no. 5,812,231, hereinafter, "Cheung") in view of Ritter et al. (U.S. pat. no. 5,570,084, hereinafter, "Ritter") and Lor et al. (U.S. pat. pub. no. 2004/0068668, hereinafter, "Lor").

The presently claimed invention relates to a turnover of communication between a wireless device and a wireless network from one access point to a second access point. In order to avoid communication disruption during the turnover, session information about the wireless device is distributed from the first access point to the second access point in advance, since it is known in advance that the two access points have overlapping coverage areas and that the migration of the wireless device from the coverage area of the first access point to that of the second access point is likely to occur. Claim 1 has been amended to better reflect this sequence of events, reciting:

1. A method of tracking a wireless device in a wireless network, the network having a plurality of gateways and each gateway coupled to at least one access point, the wireless device associated with a first access point, the method comprising:
 associating the first access point and a second access point together when the first access point and the second access point have overlapping coverage areas; and

upon establishment of a communication session between the wireless device and the first access point, transferring information associated with the wireless device to the second access point, said transferred information including session parameters relating to communication sessions between the wireless device and the wireless network such that disruption of communication between the wireless device and the wireless network during a turnover of communication with the wireless device from the first access point to the second access point is minimized. (Emphasis added)

In Lor, by comparison, the exchange of session information occurs when a wireless device moves from the coverage area of one access point to that of a second access point. It is not performed “upon establishment of a communication session” as claim 1 recites. Lor explains, in the beginning of paragraph [0068], that a wireless client will be re-associated with another access point “[w]hen [the] wireless client moves from one zone to another.” This is markedly different from the procedure recited in the claims, in which session information transfer to the second access point takes place upon establishment of the communication session with the first access point, without having to wait for movement from one zone to another.

Further, Applicants respectfully question the propriety of combining the teachings of Cheung and Lor. As acknowledged in the Office Action, one feature of claim 1 of the invention which is not disclosed in Cheung is the transfer of session information associated with the wireless device to the second access point. However, the Office Action contends that since such a feature is disclosed in Lor, the combination of Cheung and Lor renders claim 1 obvious. The Office Action states that “It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cheung to adopt the function of session persistency for handoff so that a wireless client would not experience disruption of a communication session

with new AP because the handoff would be seamless operation.” This statement from the Office Action explains the advantages of seamless handoff, but does not explain why one of ordinary skill in the art would look to Lor in modifying the teachings of Cheung. In other words, the motivation to combine these references with one another is not provided. What is merely provided is a description of what an advantage of a desirable goal (seamless handoff) sought in Lor would offer to the teachings of Cheung. This does not rise to the level of a *prima facie* case of obviousness as set forth in the Manual of Patent Examining Procedure (M.P.E.P.), which states:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.¹

In the present case, at least the first of these criteria – some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art – is absent, since what the Office Action alleges to be motivation is in fact merely a desirable goal which is neither disclosed nor suggested by the applied references.

Applicants further respectfully submit that Cheung teaches away from the presently claimed invention. The over-arching aim in Cheung is to eliminate communication path redundancy by having communications between the wireless network and the wired network take place through a single pathway, defined by the communicating wireless node on the one hand,

¹ M.P.E.P. § 2143.

and only one access point—the access point with which it is registered—on the other hand.

When movement of a wireless node occurs, the wireless node is deregistered by one access point and registered by a new wired access point. In comparison to this one-to one correspondence between the wireless node and access point in Cheung, the claimed invention in effect establishes a one-to-many correspondence between a wireless device and access points having overlapping coverage areas. That is, in the presently claimed invention, session information relating to a communicating wireless device is transferred and maintained by multiple access points in anticipation of movement of the wireless device therebetween, in contradistinction to Cheung, which seeks to eliminate any such “redundancy.”

Request for Entry of Amendment

Entry of this Amendment will place the Application in better condition for allowance, or at the least, narrow any issues for an appeal. Accordingly, entry of this Amendment is appropriate and is respectfully requested.

Conclusion


In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-1698.

Respectfully submitted,
THELEN REID & PRIEST, L.L.P.

Dated: 12/22/05


Khaled Shami
Reg. No. 38,745

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 282-1855
Fax. (408) 287-8040